

REMARKS

Claims 1-13 were pending. By this Amendment, claim 5 is amended and claims 14-28 are added, of which claims 27 and 28 are independent. Antecedent basis for the added claims exists throughout the specification, e.g. at page 4, lines 19-20 (enzyme solution); at page 9, lines 4-6 (enzyme group); at page 9, lines 17-20 (trypsin concentration); at page 20, lines 6-8 (heating); at page 9, lines 14-15 (calcium and magnesium free); at page 9, line 23 (tissue biopsy derived from skin); at page 10, lines 16-18 (nutrient solution concentration) comprises a salt solution); at page 11, lines 15-16 (filter sizes). Claims 1-4 and 7-13 are withdrawn. Upon entry of this Amendment, claims 5-6 and 14-28 will be pending.

In the Office Action mailed June 30, 2004, the unextended period for response to which was set to expire July 30, 2004, the Examiner has required restriction to one of the following inventions under 35 U.S.C. § 121:

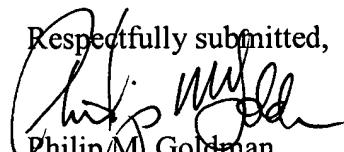
- I. Claims 1-4, drawn to a method of preparing a cell suspension, classified in class 424, subclass 93.7;
- II. Claims 5-6, drawn to a cell suspension, classified in class 424, subclass 93.7;
- III. Claims 7-9, drawn to methods of using a cell suspension, classified in class 424, subclass 93.7; and
- IV. Claims 10-13, drawn to an apparatus for developing a tissue regeneration solution, classified in class 424, subclass 283.1.

In response to the restriction requirement, Applicants provisionally elect Group II. (Claims 5-6) with traverse.

The Examiner stated that the inventions of Groups I and II are distinct because a cell suspension can be made by a materially different process such as cell culture methods. Applicant respectfully disagrees as the MPEP 806.05(f) states that an invention is distinct if the product *as claimed* can be made by another and materially different process. As claimed, the cell suspension of claim 5 is literally prepared according to the method of claim 1 and thus cannot be made by another or materially different process. Likewise, examination of Groups I and II would not require additional search or impose significant burden on the Office, would facilitate the prosecution of this application, and is well within the Examiner's discretion.

Accordingly, Applicant respectfully requests the Examiner to rejoin the claims of Group I with the claims of Group II upon a finding of allowable subject matter.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

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